

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

BOARD OF TRUSTEES of the ROCKFORD )  
PIPE TRADES INDUSTRY PENSION )  
FUND; )  
BOARD OF TRUSTEES of the PLUMBERS & ) CIVIL ACTION  
PIPEFITTERS, LOCAL 23, U.A. HEALTH & )  
WELFARE FUND; )  
BOARD OF TRUSTEES of the PLUMBERS & ) NO: 08-C-50050  
PIPEFITTERS, LOCAL 23, U.A. JOURNEYMAN )  
AND APPRENTICE TRAINING FUND; )  
PLUMBERS & PIPEFITTERS, LOCAL 23, U.A.; ) JUDGE: REINHARD  
and )  
PIPING INDUSTRY COUNCIL OF THE )  
ROCKFORD AREA; ) MAGISTRATE JUDGE:  
Plaintiffs, ) MAHONEY  
vs. )  
KERBY PLUMBING, INC., )  
an Illinois Corporation, )  
KERBY PLUMBING & MECHANICAL, INC., )  
an Illinois Corporation, and )  
CHRISTOPHER KERBY, an individual, )  
Defendants. )

**PARTIES PROPOSED CASE MANAGEMENT ORDER**

Now come all parties to this proceeding, by and through their respective attorneys, and hereby submit to the Court this Proposed Case Management Report and state as follows:

1. Pursuant to Fed. R. Civ. P. 26(f), a telephonic meeting was held in Case No. 08-C-50050 on Monday July 21, 2008, and was attended by attorney Joe Mallon on behalf of the Plaintiffs and attorney Thomas O. Meyer on behalf of the Defendants.
2. **Rule 26(a)(1) Disclosures:** The Fed. R. Civ. P. 26(a)(1) material will be exchanged by August 4, 2008.
3. **Alternative Dispute Resolution Mediation.** Counsels hereby certify that their clients have read the Pamphlet governing the Court's mediation program, that counsels have discussed

with their respective clients the available dispute resolution options provided by the Court and private entities, and that counsels have given an estimation of the fees and costs that would be associated with the litigation of this matter, through trial, to their respective clients. Further, counsels have provided to their clients an estimate of the fees and expenses reasonably expected to be incurred through an early successful mediation. Counsels certify that they have discussed the available ADR options with their clients and have considered how this case might benefit from those options. Lastly, if this is a fee shifting case, defense counsels certify that they have discussed the advantages and disadvantages of making a Rule 68 offer of judgment.

- a. At this time, the parties request that this case be excused from ADR, to give them an opportunity to discuss the possibilities for settlement. If those discussions do not result in settlement the parties may request an opportunity to engage in ADR.

4. **Discovery Plan:** The parties jointly propose to the Court the following discovery plan:

- a. Discovery will be needed on the following subjects
  - i. Breach of Area Agreement;
  - ii. Successor liability of related companies;
  - iii. Alter-ego liability of related companies;
  - iv. Breach of the Scholarship Loan Agreement;
  - v. Current delinquency to the Trust Funds (damages).
- b. **Interrogatories:** A maximum of 25 interrogatories by each party to any other party.
- c. **Requests for Admission:** A maximum of 20 requests for admission by each party to any other party.
- d. **Depositions:** A maximum of 3 depositions by Plaintiffs and 3 by Defendants.
  - i. Each deposition shall be limited to a maximum of 3 hours unless extended by

agreement of the parties.

- e. **Fact Discovery Cut-off:** Fact discovery cut-off is set for October 30, 2008.
- f. **Expert Witness Reports:** It is not anticipated that the parties will need expert witnesses in this case. In the event that expert witnesses are retained, his/her report for the Plaintiffs under Rule 26(a)(2) will be due on October 15, 2008. The report from retained expert for Defendant under Rule 26(a)(2) will be due on October 30, 2008. Supplementations under Rule 26(e) will be scheduled by the Court at the request of the parties
- g. **Discovery Cut-off:** All discovery shall be cut-off by November 15, 2008.
- h. **Amendment to Pleadings:** Time for the parties to amend pleadings and add counts or parties is hereby established as November 1, 2008.
- i. **Next Discovery Conference:** The parties suggest the next discovery conference with the Court be held on or about September 1, 2008.
- j. **Dispositive Motion:** All dispositive motions will be due 30 days after the fact discovery cut-off date unless otherwise ordered by the Court and the parties agree pleadings, motions and briefs may be exchanged by e-mail, fax, or other electronic means.

Respectfully submitted,

/s/ Joseph E. Mallon – (6280529)  
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